

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICHARD J. STACHOWSKI,

Plaintiff,

Case No. 14-cv-11425

v.

HONORABLE STEPHEN J. MURPHY, III

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION (document no. 17), **GRANTING MOTION TO REMAND** (document no. 14), **AND**
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (document no. 12)

On April 8, 2014, Richard Stachowski filed suit seeking review of the Commissioner of Social Security's ("Commissioner") decision that an overpayment of Title II benefits in the amount of \$33,379.50 was not waived, and that Stachowski is therefore liable pursuant to § 204(a)(1)(A) of the Social Security Act. The Court referred the matter to United States Magistrate Judge Michael Hluchaniuk. Stachowski filed a motion for summary judgment, and the Commissioner filed a motion to remand. ECF Nos. 12, 14. On March 31, 2015, the magistrate judge issued a Report and Recommendation ("Report") suggesting the Court deny Stachowski's motion and grant the Commissioner's motion. Report, ECF No. 17. Neither party filed an objection to the Report.

Civil Rule 72(b) governs review of a magistrate judge's report and recommendation. De novo review of the magistrate judge's findings is only required if the parties "serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2). Nevertheless, because a district judge always retains jurisdiction over a motion after referring it to a magistrate judge, the Court is entitled to review the magistrate judge's

findings of fact and conclusions of law on its own initiative. See *Thomas v. Arn*, 474 U.S. 140, 154 (1985) (clarifying that while a district court judge need not review a report and recommendation “*de novo* if no objections are filed, it does not preclude further review by the district judge, *sua sponte* or at the request of a party, under a *de novo* or any other standard”).

Because neither Stachowski nor the Commissioner filed objections, *de novo* review of the Report's conclusions is not required. Having reviewed the Report's analysis, in light of the record, the Court finds that its conclusions are factually based and legally sound. Accordingly, it will adopt the Report's findings, deny Stachowski's motion for summary judgment, grant the Commissioner's motion to remand, and remand the case for further proceedings consistent with the Report.

ORDER

WHEREFORE, it is hereby **ORDERED** that the magistrate judge's Report and Recommendation (document no. 17) is **ADOPTED**.

IT IS FURTHER ORDERED that Stachowski's Motion for Summary Judgment (document no. 12) is **DENIED**.

IT IS FURTHER ORDERED that the Commissioner's Motion to Remand (document no. 14) is **GRANTED**.

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is **REVERSED** and the case is **REMANDED** for further proceedings consistent with the Report. The Appeals Council should instruct the ALJ to proceed as specified in the Commissioner's motion, paying attention to the factors the Commissioner listed in

reassessing Stachowski's request for a waiver of overpayment, and by issuing a new decision in accordance with Title II and 42 U.S.C. § 404(b).

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: July 30, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 30, 2015, by electronic and/or ordinary mail.

s/Carol Cohron
Case Manager